



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/903,458

07/10/2001

Kuriacose Joseph

2050.001US4

9044

44367

7590

08/21/2008

SCHWEGMAN, LUNDBERG & WOESSNER/OPEN TV

P.O. BOX 2938

MINNEAPOLIS, MN 55402-0938

EXAMINER

BROWN, RUEBEN M

ART UNIT

PAPER NUMBER

2623

MAIL DATE

DELIVERY MODE

08/21/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/903,458	Applicant(s) JOSEPH ET AL.	
	Examiner REUBEN M. BROWN	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/19/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wendorf, (U.S. Pat # 5,469,431), in view of Jeffers, (U.S. Pat # 4,271,069).

Considering claim 1, the claimed distributed computing system, comprising *'a source of a data stream providing a series of time division multiplexed packets, ones of which contain auxiliary data that represent a video program, and others of which represent a distributed*

Art Unit: 2623

computing program ' Wendorf teaches a transmission system 10 that provides time multiplexing of audio/video programming, teletext data and services, see Fig. 2; col. 4, lines 65-67; col. 6, lines 35-50. As for the claimed *'distributed computing application'*, Wendorf teaches that other services may be multiplexed to the user, but does not explicitly state that any of the services would include executable code, i.e., a computing application.

Nevertheless Jeffers, which is in the same field of endeavor provides a teaching a system multiplexing a video game software to the subscriber, see col. 1, lines 35-45 & col. 2, lines 1-15. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Wendorf with the feature of transmitting video game software to software for the desirable improvement of enhancing the services available to the subscriber, via a TV set, as taught by Jeffers, col. 1, lines 15-40. The video game software of Jeffers meets the claimed *'distributed computing application'*.

'wherein the distributed computing application is repetitively transmitted independent of receiving client computer apparatus during times that the video program is transmitted', Wendorf provides a discussion of that services such as program guide map tables may be cyclically updated, which reads on the claimed subject matter, see col. 7, lines 54-61; col. 8, lines 1-65.

'a client computer, which includes a packet selector connected to the source for selecting and directing packets containing the auxiliary data representing the video program to a video

Art Unit: 2623

signal processor and selecting & directing packets containing the associated distributed application to a further processor'; *'such that the further processing includes a means to assemble the distributed computing application and execute the distributed computing application to form an interactive video program'* reads on the combination Wendorf, col. 4, lines 16-30 & col. 8, lines 51-65 & Jeffers, col. 2, lines 55-65.

Considering claims 2-3, *'wherein the further processor includes a graphics adapter'*, reads on the receiver system 50 of Wendorf that decodes and presents the menu screens, etc., see col. 4, lines 25-45 & col. 4, lines 1-25.

Considering claim 4, the claimed subject matter reads on the sound system in both Wendorf & Jeffers that presents video along with its associated audio.

Considering claim 5, the claimed, *'memory for storing program controls and selector code'*, reads on the memory 84 of Wendorf, col. 8, lines 12-21; col. 8, lines 66-67

Considering claim 6, the claimed distributed computer system, comprising elements that corresponds with subject matter mentioned above in the rejected in claim 1, is likewise rejected. As for the additional features of the first, second and third ones of the packets containing data representing and indicating, executable code; a data module and auxiliary data, respectively. The

Art Unit: 2623

claimed subject matter is met by Wendorf col. 6, lines 35-49 & Jeffers transmission of video game software.

Considering claim 7, the claimed distributed computer system, comprising elements that corresponds with subject matter mentioned above in the rejected in claims 1 & 6, is likewise rejected. As for the additionally claimed feature of a *'directory module'*, the claimed subject matter reads on the Service Map discussed in Wendorf, col. 5, lines 49-65; col. 6, lines 35-51.

Considering claim 8, the computer system comprises elements that correspond with subject matter mentioned above in the rejection of claims 6-7, and is likewise treated.

Considering claim 9, the claimed distributed computer system, comprising elements that corresponds with subject matter mentioned above in the rejected in claims 1 & 7, is likewise rejected. The claimed *'input terminal for receiving a packet data stream including packets of video signal time multiplexed with packets of data representing a distributed computing application'* corresponds with subject matter recited in the rejection of claim 1 & claim 8, and is likewise treated.

'data stream receiver, coupled to the input terminal for receiving the data stream, providing separate streams of the video signal..', reads on the demux 64, Wendorf, col. 4, lines 16-40.

As for the, *'read/write memory coupled to system bus coupled between the data stream receiver and the system bus, for receiving extracted distributed computing application responsive data and storing in the read/write memory'*, the claimed subject matter reads on the memory 84, see col. 8, lines 15-66. The claimed *'processor for controlling the data stream'*, reads on the controller 82, col. 8, lines 9-20 & Fig. 1.

Conclusion

4. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 5/19/2008 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609.04(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2623

Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-7290 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F(8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Annan Q Shang/
Primary Examiner, Art Unit 2623